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July 31, 2020

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
EXPANDED ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME	: Becker Pond Dam Removal
PROJECT MUNICIPALITY	: Mt. Washington
PROJECT WATERSHED	: Housatonic River
EEA NUMBER	: 16226
PROJECT PROPONENT	: The Nature Conservancy
DATE NOTICED IN MONITOR	: June 10, 2020

Pursuant to the Massachusetts Environmental Policy Act (MEPA; M.G. L. c. 30, ss. 61-62I) and Sections 11.06 of the MEPA regulations (301 CMR 11.00), I have reviewed the Expanded Environmental Notification Form (EENF) and hereby determine that this project **requires** the preparation of an Environmental Impact Report (EIR). To streamline the review of this project which has been identified as a designated Priority Project by the Division of Ecological Restoration (DER), I will allow the Proponent to prepare a Single EIR pursuant to 11.06(8) rather than a Draft and Final EIR.[1]

Project Description

As described in the Expanded Environmental Notification Form (EENF), the Proponent, the Nature Conservancy, proposes to remove the Becker Pond Dam and restore an unnamed brook that joins Schenob Brook downstream of Sages Ravine. The project involves the excavation and removal of the dam and the related excavation of a stream channel. The project is intended to restore natural flow of the unnamed brook, improve fish passage, and eliminate a source of thermal stress on an important designated coldwater fishery stream.

[1] The EENF included a request that I grant a Waiver from the requirement to prepare a Mandatory EIR. The Proponent's consultant submitted a request that I allow a Single EIR to be prepared in lieu of the usual two-stage Draft and Final EIR process, in the event that I decline to grant a full EIR Waiver.

The dam is a 95-foot (ft) long earthen embankment with a concrete core wall. The structural height is 14.3 ft and the crest of the concrete spillway is approximately 2.3 ft below the top of the concrete core wall; the dam has a weir length of 23.2 ft. The concrete apron extends approximately 16.8 ft downstream of the base of the spillway. A visual inspection completed in 2016 found the dam in poor condition. The left training wall was cracking and had slipped off the foundation. There was also significant erosion of the earthen embankment adjacent to the wall. The wooden bridge crossing the dam is partially collapsed and has been cordoned off by the Nature Conservancy. Identified deficiencies with the dam include inability of the dam to safely pass the Spillway Design Flood (SDF) without overtopping the embankments; failure of embankment walls; debris within the spillway approach and discharge areas; and deterioration of portions of the pedestrian bridge.

The dam blocks the natural movement of fish and other aquatic life and prevents the natural movement of sediment. Removal of the dam will restore the natural ecological functions of the waterway and restore water temperatures, dissolved oxygen levels and natural sediments. The project also removes the potential safety hazard that the dam and bridge present. DER selected the Becker Pond Dam Removal as a designated Priority Project in 2018 and worked with the Nature Conservancy to develop a restoration approach for this site that will restore fish passage and wildlife habitat. This site is also part of a University of Massachusetts (UMass) research project that proposes to address the knowledge gap surrounding water quality changes following dam removal. The UMass research project will monitor and take measurements of the water quality (temperature and dissolved oxygen), aquatic macro-invertebrates, and fish assessments. These measurements will be taken by UMass before and after the dam removal and will be published as part of a student thesis/dissertation and in journal articles.

Specifically, the project will include removal of the full vertical and lateral extent of the dam and restoration of the adjacent side slopes and channel in the footprint of the dam. The Preferred Alternative was revised during the MEPA review period to also include mechanical removal of a portion of the 550 cubic yards (cy) of impounded sediment that has been determined to be the readily mobile portion in order to create a pilot channel to facilitate channel formation. The excavated sediment would be reused for shaping and grading on site. Any sediment that cannot be reused on-site will be disposed of at an off-site landfill. The benefit of this alternative would be reduced potential for temporary sediment impacts to downstream receiving areas. Sediment that could not be re-used on site would need to be dewatered and hauled to a landfill. [2]

As noted in the EENF, there is an existing access road extending from East Street to the dam site. Although the majority of this access road is on land controlled by the Nature Conservancy, the stretch closest to East Street is held by a private landowner and the owner has not allowed access across the property. In order to provide construction access to the site, the Nature Conservancy has proposed construction of a temporary access road from East Street to bypass the property. This temporary access road would be located entirely within the Nature Conservancy's property and connect directly to East Street to the existing dirt road located on the Nature Conservancy's property. Impacts from this access road construction will include removal of trees from a mature forest. The Nature Conservancy proposes

[2] See supplemental information related to the alternative analysis and site access provided on behalf of the Nature Conservancy on July 2, 2020.

revegetation of this temporary access road with non-mature trees following construction and utilization as a permanent hiking trail.

Project Site

Becker Pond covers an area of approximately 0.65 acres. Becker Pond Dam is located on an unnamed brook near Mount Washington State Forest in the southwestern corner of Massachusetts. The dam is a run-of-river dam, does not provide any flood storage and is not under jurisdiction of the Massachusetts Office of Dam Safety. The historical ecological function of the associated unnamed brook is a Coldwater Fishery Resource and falls within the Schenob Brook Area of Critical Environmental Concern (ACEC). Downstream of the site, the brook flows through Sages Ravine and drains to Schenob Brook, a tributary to the Housatonic River. The dam and surrounding property are part of the 800-acre Mount Plantain Preserve, owned by the Nature Conservancy, and are accessible via an unpaved road through private property off of East Street in Mount Washington. The Nature Conservancy's property is used by the public for hunting, fishing, and other recreation. The Nature Conservancy recently constructed a footbridge upstream of the impoundment to connect the original and new Hallig Trails on either side of the brook. The next bridge over the brook (Undermountain Road, Salisbury, Connecticut) is approximately two miles downstream.

Downstream of Becker Pond Dam, the brook flows over steep terrain within a narrow forested valley. The channel is approximately 12 to 15 ft wide with a 1 to 1.5-foot bankfull depth. Frequent, but irregularly spaced constrictions, created by bedrock, narrow the channel to approximately 8 ft in some locations. The channel exhibits substantial complexity in substrate, form, and habitat. Plunge pools are located below these drops. Pools are also located downstream of riffles and on the outside of bends where the channel is eroding along the valley edge.

Upstream of the impoundment, a small stone wall crosses the channel and marks the approximate upstream limit of influence of the dam. The new footbridge, constructed by the Nature Conservancy, is located approximately 50 ft upstream of this stone wall. Upstream of the bridge, for a distance of approximately 100 feet, the channel is steep with boulders and cobbles. Upstream of the steep boulder/cobble area, the channel becomes a lower gradient wetland channel with extensive deciduous wooded swamp wetlands influenced by beaver activity.

Wetland resource areas present in the vicinity of the dam include Bank, Land Under Water (LUW), Riverfront Area (RFA), Bordering Vegetated Wetlands (BVW), and Bordering Land Subject to Flooding (BLSF). Portions of the project site are mapped *Estimated or Priority Habitat of Rare Species* according to the 14th edition of the Massachusetts Natural Heritage Atlas.

Environmental Impacts and Mitigation

As described in the EENF, potential environmental impacts include permanent alteration of 0.98 acres of land and alteration of the following wetland resource areas: Bank (50 linear feet (lf)), LUW (34,600 sf), BLSF (20,100 sf), and RA (251,600 lf). The project includes dredging of approximately 550 cy of sediment.

Measures to avoid, minimize, and mitigate impacts include: use of erosion control best management practices (BMPs) and implementation of a construction-period management plan. Erosion and sedimentation controls will be installed to prevent sediment migration to resource areas.

Jurisdiction and Permits

This project is subject to MEPA review and a mandatory EIR pursuant to 301 CMR 11.03(3)(a)(4) because it requires Agency Actions and will result in the structural alteration of an existing dam that causes a decrease in impoundment capacity. The also exceeds several ENF thresholds at 301 CMR 11.03(3)(b)(1)(f) and 301 CMR 11.03(11)(b) because it will alter one half or more acres of any other wetlands and is located within a designated ACEC (respectively). The project requires a Section 401 Water Quality Certification (WQC) and a Chapter 91 (c.91) Permit from the Massachusetts Department of Environmental Protection (MassDEP). The project is receiving funding from the Division of Ecological Restoration (DER).

The project requires an Order of Conditions from the Mt. Washington Conservation Commission (or in the case of an appeal, a Superseding Order of Conditions from MassDEP). It also requires authorization from the U.S. Army Corps of Engineers (ACOE) under the General Permits for Massachusetts in accordance with Section 404 of the Clean Water Act (CWA).

The project is receiving State Financial Assistance from the Commonwealth, through DER. Therefore, MEPA jurisdiction for the project is broad and extends to all aspects of the project that are likely, directly or indirectly, to cause Damage to the Environment as defined in the MEPA regulations.

Waiver Request

In accordance with Section 11.05(7) of the MEPA regulations, the Nature Conservancy submitted an EENF with a request that I provide a Waiver of the Mandatory EIR requirement, or if the Waiver is not granted (301 CMR 11.11), allow a Single EIR to be prepared in lieu of the usual two-stage Draft and Final EIR process pursuant to Section 11.06(8) of the MEPA regulations. The EENF was subject to an extended public comment period pursuant to Section 11.06(1) of the MEPA regulations. The EENF included a discussion of project consistency with the waiver criteria outlined at 310 CMR 11.11.

As part of the MEPA review process for the proposed project, a virtual MEPA site visit was held on June 22, 2020. Issues related to sediment management and site access were raised during the MEPA site visit. The Nature Conservancy submitted supplemental information on July 2, 2020 to address these issues. The supplemental information provided an expanded alternatives analysis, including selection of a new Preferred Alternative, beyond what was submitted with the project EENF and also provided more information about site access.

Single EIR Request

In accordance with Section 11.05(7) of the MEPA regulations, the Proponent requested that in the case a waiver was not granted, I allow the Proponent to fulfill its EIR obligations under MEPA with a Single EIR, in-lieu of a Draft and Final EIR. According to 301 CMR 11.06(8), I may allow a Single EIR provided that the EENF:

- Describes and analyzes all aspects of the project and all feasible alternatives, regardless of any jurisdictional or other limitation that may apply to the Scope;
- Provides a detailed baseline in relation to which potential environmental impacts and mitigation measures can be assessed; and
- Demonstrates that the planning and design of the project use all feasible measures to avoid potential environmental impacts.

Review of the EENF

The EENF provided a description of existing and proposed conditions, preliminary project plans, results of hydrologic and hydraulic (H&H) modeling, sediment analysis results and an alternatives analysis, and identified measures to avoid, minimize and mitigate environmental impacts. The EENF notes that the Nature Conservancy has been working in partnership with State Agencies and stakeholder groups including DER and MassDEP. The EENF originally proposed a Preferred Alternative of a Full Dam Removal with Passive Downstream Release of Impounded Sediment Alternative. As noted above, supplemental information provided on July 2, 2020 selected a new Preferred Alternative which includes the Full Dam Removal with a Partial Impounded Sediment Removal of 550 cy Alternative.

I received a number comment letters, including from project partners, that were supportive of the project and the Nature Conservancy's request for an EIR Waiver because of the project's positive ecological impacts including improved water quality, restoration of natural sediment and nutrient transport regimes, improvement to aquatic habitat, aquatic species passage, creation of wetlands, and increased floodplain connectivity. I also received a number of comment letters, including from the Town of Mt. Washington Select Board and the Berkshire Regional Planning Commission (BRPC), requesting further MEPA review to address deficiencies that remain within the alternatives analysis, the assessment of the potential environmental impacts and environmental mitigation measures.

Alternatives Analysis

The Nature Conservancy considered four alternatives: the No Action Alternative; Full Dam Removal with Passive Downstream Release of Impounded Sediment Alternative; Full Dam Removal with Full Impounded Sediment Removal Alternative; and the Full Dam Removal with Partial Impounded Sediment Removal Alternative (the new Preferred Alternative). Alternatives were evaluated based on consistency with project goals, feasibility, cost, and impacts to environmental resources. Alternatives include the following:

1. Alternative 1: No-Action Alternative

The No-Action alternative would eliminate the cost of dam removal and stream restoration. This alternative would preserve the shallow impoundment environment which would continue to fill in with sediment over time. However, this No-Action alternative would continue to pose a safety risk due to the structural deficiencies of the dam. This alternative would also continue the long history of passage constraints for aquatic organisms and continued deposition of sediment and organic material within the impoundment. Dam removal, stream restoration, and reduction in safety hazards are the primary goals of this proposed project; the No-Action alternative would not serve the project purpose and was dismissed.

2. Alternative 2: Full Dam Removal with Passive Downstream Release of Impounded Sediment Alternative

This alternative includes the removal of the full vertical and lateral extent of the dam and restoration of the adjacent side slopes and channel in the footprint of the dam. With this alternative, approximately 550 cubic yards of impounded sediment would be passively released downstream following dam removal. This sediment would supplement sediment-starved reaches of the stream and Schenob Brook, with finer-grained materials being mobilized well downstream. The concrete from the dam would be removed to an off-site facility to be recycled, and disturbed valley slopes would be stabilized with biodegradable fabric. This alternative has the lowest associated implementation cost. However, it would result in higher risk of sedimentation within Sages Ravine. Material stored within the impoundment and mobilized following dam removal would be dispersed by the brook downstream of the dam. The primary impacts of sediment pulses are likely to include filling of pools, fining of the channel bed, and burial of other habitat features and/or aquatic species that cannot quickly mobilize and adapt to rapidly changing conditions. Most deposition is likely to be temporary; however, permanent deposition of a portion of the mobilized sediment may occur in secondary channels and low-lying floodplain areas. As such, it has been removed from consideration as the preferred alternative as indicated previously.

3. Alternative 3: Full Dam Removal with Full Impounded Sediment Removal Alternative

This alternative would include dam removal as in Alternative 2, but would also include mechanical removal of the total 1,500 cy of impounded sediment and disposal in a landfill. The purpose of complete sediment removal would be to minimize potential impacts to downstream receiving areas such as Sages Ravine. Although this is a technically feasible option and would lower the risk of sedimentation downstream, this alternative would require extensive water control to re-route the stream during construction and then excavate and remove the sediment. In order to be safely transported, the sediment dewatering would require an extensive cleared and level space, thus increasing the area of impact in the Riverfront Area. The sediment would then need to be transferred to dump trucks and hauled to a landfill. Finally, this alternative would also involve extensive seeding and revegetation of the former impoundment area with associated monitoring and maintenance costs.

4. Alternative 4 (*Preferred Alternative*): Full Dam Removal with Partial Impounded Sediment Removal Alternative

This alternative would provide the same level of dam removal as Alternatives 2 and 3 and would include mechanical removal of a portion of the 550 cy of impounded sediment that has been determined to be the readily mobile portion in order to create a pilot channel through the impoundment to facilitate channel formation. The excavated impounded sediment would be disposed of at an off-site landfill or (preferably) reused for shaping and grading on site. The benefit of this alternative would be reduced potential for sediment impacts to downstream receiving areas relative to Alternative 2 because 550 cy would be mechanically removed and thus not flow downstream. As with Alternative 3, extensive water control would be required to re-route the stream during construction and then excavate and haul out the sediment. The limits of disturbance would be greater than the footprint of the excavated channel (although not quantified in the supplemental material). However, the Preferred Alternative would require a smaller area of active revegetation as compared to Alternative 3. The Preferred Alternative would provide a reduced potential for sediment impacts to Sages Ravine while avoiding the cost of complete sediment removal (Alternative 3) and providing similar ecological benefit to Alternative 2. As such, this has been selected as the Preferred Alternative.

Wetlands and Waterways

The Mt. Washington Conservation Commission will review the project to determine its consistency with the limited project provisions of the Wetlands Protection Act (WPA), the Wetlands Regulations (310 CMR 10.00), and associated performance standards, including stormwater management standards (SMS). MassDEP will review the project to determine its consistency with the 401 WQC regulations (314 CMR 9.00). The Preferred Alternative as proposed includes removal of a portion of sediment in the impoundment and stabilization of certain sediments in place. While incidental movement of some sediment downstream is expected, the Preferred Alternative calls for construction of a pilot channel in the impoundment through removal of approximately 550 cy of sediment in an effort to prevent the majority of sediment within the impoundment from being mobilized and discharged to the receiving water. The Preferred Alternative will have a monitoring plan to ensure that this approach works as anticipated. I refer the Proponent to comments from MassDEP which identify issues with the wetland delineation, quantification of impacts, and identify discrepancies with wetland resource areas identified on the plans. Additional information to address this issue is required in the Single EIR.

The EENF includes a sediment characterization study within the Becker Pond Dam impoundment in accordance with 401 WQC regulations. The material sampled was composed of sand, silt, and clay with a median grain size for all samples in the medium sand range. The analyses showed a reduction in median grain size and increase in fines (silt and clay) content in the downstream direction from approximately 19% fines in the upstream sample to 39% fines in the downstream sample. The EENF estimated the total volume of impounded sediment is approximately 1,500 cy. The watershed has had very little development or agriculture, and the EENF concludes that there is low potential for the impounded sediment to contain oil or other hazardous materials. In addition, chemical testing results show that concentrations of the majority of the pollutants tested were below detection levels.

Based on the results of sediment sampling, the EENF proposes to dispose of the dredged material on-site in accordance with MassDEP policy, as applicable. The dredged spoils shall be managed and disposed in accordance with conditions of a 401 WQC as detailed in the *MassDEP Interim Policy COMM 94-007 Sampling, Analysis, Handling & Tracking Requirements for Dredged Sediment Reused or Disposed at Massachusetts Permitted Landfills*.

Wildlife and Ecological Resources

Becker Pond Dam is a run-of-river dam, does not provide any flood storage and is not under jurisdiction of the Massachusetts Office of Dam Safety. The historical ecological function of the associated unnamed brook is a Coldwater Fishery Resource and falls within the Schenob Brook ACEC. The Schenob Brook ACEC, with its associated wetlands, comprises one of the largest continuous calcareous seepage swamp in Massachusetts and contains one of the largest examples of calcareous fens in southern New England. Coldwater Fishery Resource habitats are a declining resource in Massachusetts due to climate change and other anthropogenic impacts. There are no other impoundments or current dams along unnamed brook downstream of Becker Pond Dam. As stated in the EENF, temperature data collected showed temperatures above the known thresholds for trout in Becker's Pond. Fish community sampling by UMass found exclusively warm-water tolerant species in the pond, while sampling upstream and at locations downstream of the dam showed an increasing proportion of coldwater-dependent species (such as trout) as the distance from the pond increased. According to the EENF, the Becker's Pond contains higher temperatures of water than the free-flowing

areas of unnamed brook downstream of the dam. According to the EENF, the project will improve the ecological function of the brook and improve community resiliency by eliminating the risk of dam failure and need for maintenance; restoring the unnamed brook's natural channel, water temperatures, dissolved oxygen levels; and restoring natural sediment transport pathways downstream of the dam.

Climate Change Adaptation and Resiliency

The effects of climate change, including increased frequency and intensity of precipitation events, underscore the importance of proactively managing dam infrastructure. The EENF included the results of the hydraulic/hydrologic analysis which was used to design the project and to gauge its potential downstream impacts. The hydraulic analysis and the hydrologic modeling were conducted in order to model to estimate water surface profiles under various flow conditions and channel/breach configurations.

According to the EENF, under existing conditions the Becker's Pond Dam cannot adequately pass the 100-year, 24-hour storm event and includes flow overtopping the dam. Under proposed conditions, the restored channel will, at minimum, pass the 100-year flood and during storms with higher flows the former pond will act as a flood storage area. The EENF did not address how the effects of climate change may impact storm frequency or intensity. However, the dam is in poor condition and failure is expected. A visual inspection carried out in 2016 found with several critical issues with the dam, notably, the left training wall, which is cracked and failing, has slipped off its foundation. The EENF also notes that the inspection found significant erosion of the earthen embankment adjacent to the wall and cracked and spalling concrete in other areas. The wooden bridge crossing the dam has partially collapsed and has been cordoned off and warning signs posted. As indicated in the EENF, the project is intended to provide immediate benefits by reducing the potential risks to public safety and the environment associated with dam failure.

Greenhouse Gas Emission (GHG)

This project is subject to review under the May 2010 MEPA Greenhouse Gas Emission (GHG) Policy and Protocol ("the Policy) because it exceeds thresholds for a mandatory EIR. The GHG Policy includes a de minimus exemption for projects that are expected to produce minimal GHG emissions. As rehabilitation of an existing dam, GHG emissions will be limited to the construction period of the project, and are anticipated to be small. As such, this project falls under the GHG Policy's de minimus exemption and the Nature Conservancy was not required to submit a GHG analysis in conjunction with the EENF. The Nature Conservancy will reduce construction-period emissions through the use of ultra-low sulfur diesel fuel (ULSD) and anti-idling requirements.

Construction Period

Construction activities described in the EENF include the demolition and removal of the existing dam, construction of the stream channel, and dredging activities. The dam removal will include removing the full vertical and lateral extent of the concrete core wall and removing other concrete components including the apron and the spillway. The concrete material will be removed from the channel (to a staging area), broken into pieces, and removed to an approved facility. According to the EENF, the area of the stream impacted by construction activities will be restored to pre-construction

conditions or better at the conclusion of the project. These restoration activities will include the placement of a series of specially-formulated seed mixes containing native wetland and upland species.

All construction and demolition activities should be managed in accordance with applicable MassDEP's regulations regarding Air Pollution Control (310 CMR 7.01, 7.09-7.10), and Solid Waste Facilities (310 CMR 16.00 and 310 CMR 19.00, including the waste ban provision at 310 CMR 19.017). The project should include measures to reduce construction period impacts (e.g., noise, dust, odor, solid waste management) and emissions of air pollutants from equipment, including anti-idling measures in accordance with the Air Quality regulations (310 CMR 7.11).

The Nature Conservancy will select project contractors that have installed retrofit emissions control devices to reduce emissions of volatile organic compounds (VOCs), carbon monoxide (CO) and particulate matter (PM) from diesel-powered equipment. Off-road vehicles are required to use ULSD. The Nature Conservancy is advised that if oil and/or hazardous material are identified during the implementation of this project, notification pursuant to the Massachusetts Contingency Plan (MCP, 310 CMR 40.0000) must be made to MassDEP.

The EENF indicates the site does not contain any structures listed in the State Register of Historic Places. The Massachusetts Board of Underwater Archaeological Resources (BUAR) notes that if any submerged cultural/archaeological resources are encountered during the course of the project, the Nature Conservancy should take steps to limit adverse impacts to resources and notify BUAR immediately.

Conclusion

Based on consultation with State Agencies and review of comment letters, I am declining the request to waive the EIR process in its entirety, but will allow the Proponent to file a Single EIR in accordance with the limited Scope below. The primary emphasis of this Scope is to establish baseline environmental conditions and resource areas; assess potential environmental impacts; provide additional description and analysis of other potential alternatives to the project and to provide additional information necessary to support selection of the Preferred Alternative.

SCOPE

General

The Single EIR should follow Section 11.07 of the MEPA regulations for outline and content, as modified by this Scope. It should respond to comments received on the EENF. The Single EIR should include a detailed description of the proposed project and describe any changes to the project since the filing of the EENF. The Single EIR should include updated plans to reflect any modifications to the project design. The Single EIR should identify and commit to specific environmental mitigation measures and provide draft Section 61 Findings. The Single EIR should include a list of required State Agency Permits, Financial Assistance, or other State approvals, as well as any local or federal permitting. If necessary, it should provide an updated description and analysis of applicable statutory

and regulatory standards and requirements, and a description of how the project will meet those standards. It should provide a detailed description of construction procedures for all phases.

The Preferred Alternative was selected during the course of MEPA review without adequate identification of impacts or a full opportunity for public comment and input. The Single EIR should include additional description and analysis of the Preferred Alternative including a more precise delineation of impacted environmental resource areas, the potential ecological benefits of dam removal including for species habitat, any associated site plans for the Preferred Alternative and permitting requirements, and a description of how recreational opportunities will be maintained through the Preferred Alternative.

According to supplemental materials provided, under the Preferred Alternative "the limits of disturbance would be substantially greater than the footprint of the excavated channel." The Single EIR should provide additional information with respect to the limits of disturbance, environmental impacts and all proposed mitigation measures. In addition, according to the supplemental materials, the final details of the on-site placement of some of the 550 cy of dredged material will take placein upland areas. Portions of the project site are mapped *Estimated or Priority Habitat of Rare Species* according to the 14th edition of the Massachusetts Natural Heritage Atlas. Therefore, any placement of dredged sediment should be discussed with Natural Heritage and Endangered Species Program (NHESP). The Single EIR should provide updates on this discussion with NHESP, and an identification of anticipated impacts to rare species if any.

Alternatives Analysis

The Nature Conservancy considered four alternatives in the EENF: the No Action Alternative; Full Dam Removal with Passive Downstream Release of Impounded Sediment Alternative; Full Dam Removal with Full Impounded Sediment Removal Alternative; and the Full Dam Removal with Partial Impounded Sediment Removal Alternative (the Preferred Alternative). I acknowledge the comments received from several sources indicating that a fifth alternative was not included, which involves leaving the dam intact in order to preserve the current recreational uses of the dam while conducting repairs to eliminate the safety issues posed by the condition of the dam. The Single EIR should analyze this fifth alternative, in the same manner the other four alternatives were considered and include an evaluation of this fifth alternative based on consistency with project goals, feasibility, cost, and impacts to environmental resources. The Single EIR should evaluate how other alternatives will continue recreational opportunities, as compared to the fifth alternative described above. The Single EIR should provide any additional analysis of alternatives necessary to support selection of the Preferred Alternative as the alternative that the Proponent asserts will avoid, minimize, and mitigate Damage to the Environment to the maximum extent practicable. The Single EIR should include a description of how the Preferred Alternative compares relative to the dismissed alternatives and describe the differences in impacts to habitat, wetland impacts, sediment transfer within the limit of work and downstream. The Single EIR should include a detailed description of alternative construction methodologies that can reduce project impacts.

Wetlands/Waterways

The Single EIR should clarify the potential extent of permanent impact and temporary wetland alteration for the Preferred Alternative and include a narrative that addresses the projects consistency

with the Wetland Protection Act (WPA), its implementing regulations (310 CMR 10.00) and associated performance standards; and demonstrates compliance with 401 WQC standards. The Proponent should review and include provisions for bank stabilization along the proposed pilot channel and adhere to the principles, methods, and techniques of the Natural Resources Conservation Service (NRCS) Stream Restoration Design Handbook, National Engineering Handbook Part 654 (Released September 20, 2007).

The Single EIR should include narrative and supporting data or graphics as necessary to demonstrate that the project can meet all applicable performance standards and regulations. The Single EIR should also provide a narrative and plans which clearly identify work activities. Not all wetland resource areas delineations are apparent or easy to read on the site plans provided in the EENF. All resource areas must be clearly shown on site plans and resource area alterations quantified on the site plans submitted in the Single EIR. I refer the Nature Conservancy to MassDEP comments for additional guidance on this issue.

The Nature Conservancy should continue to consider alternative construction timing or sequencing that would minimize or mitigate impacts to wetland resource areas and include any updates in the Single EIR. It should provide a monitoring and mitigation Plan for wetland resource areas, including BVW and LUW. The plan should identify the duration of the monitoring program, methods for assessing wetlands impacts including the effectiveness of creating the proposed pilot channel to minimize sediment transfer downstream, measures for identifying and managing invasive species, and potential mitigation measures in the event proposed design is shown to be less effective than anticipated.

Climate Change and Resiliency

Governor Baker issued Executive Order 569: Establishing an Integrated Climate Change Strategy for the Commonwealth (EO 569) on September 16, 2016. EO 569 recognizes the serious threat presented by climate change and directs Executive Branch agencies to develop and implement an integrated strategy that leverages state resources to combat climate change and prepare for its impacts. Requirements to analyze the effects of climate change through EIR review is an important part of this statewide strategy. The Single EIR should discuss potential effects of climate change, including increased frequency and intensity of precipitation events and extreme heat events, on the project design in the context of improving reliability and resiliency of the project or surrounding communities. It should address potential impacts associated with changes in flow rates, velocity and water depth, and changes in flood attenuation capacity, including any potential for downstream flooding or exacerbation of downstream conditions that may result from the removal of the dam.

Construction Period

The Single EIR should identify how the Nature Conservancy will avoid and minimize clearing of trees and other vegetation in the construction of the temporary access road. The Single EIR should describe the techniques that will be used for revegetation of this temporary access road following construction and how this area will be utilized as a permanent hiking trail. The Single EIR should describe changes to construction methodology based on refinements of the Preferred Alternative. The Single EIR should also include information about whether the hauling of construction material via East Street is anticipated to cause any damage to this Town maintained road, and if so, describe potential mitigation measures.

The Single EIR should provide an update on construction planning, including a description of how the project will comply with MassDEP Solid Waste and Air Pollution Control regulations and the erosion and sedimentation controls that will be implemented throughout the project site to reduce potential impacts to wetland resource areas. The Single EIR should describe any other construction period BMPs that will be employed other than those already disclosed.

Mitigation and Draft Section 61 Findings

The Single EIR should provide a separate chapter summarizing proposed mitigation measures including draft Section 61 Findings for each anticipated State Agency Action. The Single EIR should contain clear commitments to implement these mitigation measures, estimate the individual costs of each proposed measure, identify the parties responsible for implementation, and include a schedule for implementation.

Response to Comments

The Single EIR should contain a copy of this Certificate and a copy of each comment letter received. To ensure that the issues raised by commenters are addressed, the Single EIR should include direct responses to comments to the extent that they are within MEPA jurisdiction. This directive is not intended to, and shall not be construed to enlarge the scope of the Single EIR beyond what has been expressly identified in this Certificate. I recommend that the Nature Conservancy use either an indexed response to comments format, or a direct narrative response.

Circulation

The Proponent should circulate the Single EIR to those parties who commented on the EENF, to any State and municipal agencies from which the Proponent will seek permits or approvals, and to any parties specified in section 11.16 of the MEPA regulations. The Proponent may circulate copies of the Single EIR to commenters in a digital format (e.g., CD-ROM, USB drive) or post to an online website. However, the Proponent should make available a reasonable number of hard copies to accommodate those without convenient access to a computer to be distributed upon request on a first-come, first-served basis. The Proponent should send correspondence accompanying the digital copy or identifying the web address of the online version of the Single EIR indicating that hard copies are available upon request, noting relevant comment deadlines, and appropriate addresses for submission of comments. The Single EIR submitted to the MEPA office should include a digital copy of the complete document. A copy of the Single EIR should be made available for review in the Mount Washington Public Library.[3]

July 31, 2020
Date

K. Theoharides
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[3] Requirements for hard copy distribution or mailings will be suspended during the Commonwealth's COVID-19 response. Please consult the MEPA website for further details on interim procedures during this emergency period: https://www.mass.gov/orgs/massachusetts-environmental-policy-act-office.

Comments received:

06/24/2020	Trout Unlimited - Taconic Chapter
06/29/2020	Town of Mount Washington Select Board
06/30/2020	Division of Ecological Restoration
07/01/2020	Eleanor Dawson
07/01/2020	Ted Dombrowski
07/20/2020	Massachusetts Department of Environmental Protection (MassDEP) Western Regional Office (WERO)
07/20/2020	Berkshire Regional Planning Commission
07/24/2020	Board of Underwater Archaeological Resources (BUAR)
07/24/2020	Housatonic Valley Association
07/24/2020	American Rivers
07/24/2020	Appalachian Trail Conservancy

KAT/ACC/acc

Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection
Western Regional Office • 436 Dwight Street, Springfield MA 01103 • 413-784-1100

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Kathleen A. Theoharides
Secretary

Martin Suuberg
Commissioner

July 20, 2020

Kathleen A. Theoharides, Secretary
Executive Office of Energy & Environmental Affairs
Massachusetts Environmental Policy Act Office
Anne Canaday, EEA No. 16226
100 Cambridge Street, 9th Floor
Boston, MA 02114-2524

Re: Becker Pond Dam Removal Project
Mt. Washington EENF

Dear Secretary Theoharides,

The Massachusetts Department of Environmental Protection (MassDEP), Western Regional Office (WERO) appreciates the opportunity to comment on the Expanded Environmental Notification Form (EENF) submitted for the proposed Becker Pond Dam Removal Project in Mt. Washington, Massachusetts. The Proponent (The Nature Conservancy) seeks a Waiver of a Mandatory Environmental Impact Report. Supplemental project information was submitted on July 2, 2020. Becker Pond is approximately 0.65 acres and is not under the jurisdiction of the Office of Dam Safety (ODS). The dam and surrounding property are part of the 800-acre Mt. Plantain Preserve, owned by The Nature Conservancy. The dam is in poor condition with several critical safety and structural issues. A site meeting was held on June 22, 2020. The applicable MassDEP regulatory and permitting considerations regarding wetlands, air pollution, solid waste, hazardous waste and waste site cleanup are discussed.

I. Project Description

The Nature Conservancy, Proponent, is seeking to remove the Becker Pond Dam and restore an unnamed brook that joins Schenob Brook downstream of Sages Ravine. The dam is a 95-foot long earthen embankment with a concrete core wall. The structural height is 14.3 feet

and the crest of the concrete spillway is approximately 2.3 feet below the top of the concrete core wall and has a weir length of 23.2 feet. The concrete apron extends approximately 16.8 feet downstream of the base of the spillway. A visual inspection completed in 2016 found the dam in poor condition. The left training wall was cracking and had slipped off the foundation. There was also significant erosion of the earthen embankment adjacent to the wall. The wooden bridge crossing the dam is partially collapsed and has been cordoned off by the The Nature Conservancy. The channel downstream of the dam is approximately 12-15 feet wide, narrowing to 8 feet wide in some areas, to 1 foot in depth.

The dam blocks the natural movement of fish and other aquatic life and prevents the natural movement of sediment. Removal of the dam will restore the normal ecological functions of the waterway and restore water temperatures, dissolved oxygen levels and natural sediments. The project also removes the potential safety hazard that the dam and bridge present.

Some of the estimated 550 cubic yards of pond sediments will likely be removed mechanically to provide a reduced potential for sediment impacts to Sages Ravine Brook and to create a channel through the impoundment to facilitate channel formation. The excavated sediment would be disposed of off-site or reused for shaping and grading on site. The area of land under water to be converted to Bordering Vegetated Wetland is approximately 34,600 square feet.

Environmental impacts associated with this project include:

- 0.98 total acres of existing land
- -20,100 SF Bordering land Subject to Flooding
- -34,600 SF of new other wetland alteration (Land Under Water)
- + 50 LF Bank
- +251,600 FF Riverfront area

II. Required Mass DEP Permits and/or Applicable Regulations

Wetlands
310 CMR 10.00
Water Quality Certificate
314 CMR 9.00
Air Pollution
310 CMR 7.00
Solid Waste
310 CMR 16.00
Hazardous Waste
310 CMR 30.00
Bureau of Waste Site Cleanup
310 CMR 40.000

III. Permit Discussion

Bureau of Water Resource

401 Water Quality Certificate

As proposed, this project will require a Clean Water Act Section 401 Water Quality Certification (WQC) for dredging. The project as proposed includes removal of a subset of sediments in the impoundment and stabilizing of certain sediments in place. Incidental sluicing of some sediments downstream is expected, though the preferred alternative calls for construction of a pilot channel in the impoundment through removal of approximately 550 cubic yards of sediments in an effort to prevent the majority of sediments within the impoundment from being mobilized and discharged to the receiving water. The Proponent should submit a copy of the application to both the Western Regional and the Boston Office of MassDEP for review. One certificate will be issued following coordination between regional staff and the Boston office.

Based on the results of sediment sampling, the Proponent proposes to dispose of the dredged material on-site in accordance with MassDEP policy, as applicable. The dredged spoils shall be managed and disposed in accordance with conditions of a 401 Water Quality Certificate Permit as detailed in the *MassDEP Interim Policy COMM 94-007 Sampling, Analysis, Handling & Tracking Requirements for Dredged Sediment Reused or Disposed at Massachusetts Permitted Landfills.*

The Proponent should review and include provisions for bank stabilization along the proposed pilot channel and adhere to the principles, methods, and techniques of the Natural Resources Conservation Service (NRCS) Stream Restoration Design Handbook, National Engineering Handbook Part 654 (Released September 20, 2007). Specifically, proposed design should include techniques and methods described within the following references:

- *Technical Supplement 14I, Streambank Soil Engineering, Part 654 National Engineering Handbook;*
- T*echnical Supplement 14J, Use of Large Woody Material for Habitat and Bank Protection, Part 654 National Engineering Handbook.*

Wetlands and Waterways

The Site appears to contain Bank (Inland), Bordering Vegetated Wetland, Land Under Water Bodies and Waterways (LUWW), and Riverfront Area. The Proponent notes that there will be 20,100 sq. ft. of Bordering Land Subject to Flooding (BLSF) impacts, though there is evidently no FEMA-mapped floodplain in Mount Washington. This should be clarified.

The scope of the project requires that a Notice of Intent (NOI) be filed with the Mount Washington Conservation Commission. Prior to commencement of project construction, a final Order of Conditions (OOC) must be issued by the Commission.

Resource Area Delineation
MassDEP notes resource areas are partially depicted (i.e., Land Under Waterbodies and Waterways), though associated survey flag locations marking the top of Bank and the extent of any Bordering Vegetated Wetlands adjacent to Becker Pond (if existing) are not readily apparent on the site plans provided. Delineation data forms for vegetated wetlands are provided in the EENF, though no vegetated wetlands are depicted on the site plans, including the known wetland near the proposed construction entrance of East Street. All resource areas must be clearly shown on site plans and resource area alterations quantified on the site plans submitted for subsequent permitting.

Ecological Restoration Project Provisions
MassDEP recommends that the project be submitted as an Ecological Restoration Project, using WPA Form 3A, provided the project qualifies as such per the definition found at 310 CMR 10.04 and provided the project meets the *Additional Eligibility Criteria for Dam Removal Projects* outlined at 310 CMR 10.13(2).

Bureau of Air and Waste

Air Quality

Construction and Demolition Activities
The construction and demolition activity must conform to current Air Pollution Control Regulations. The proponent should implement measures to alleviate dust, noise, and odor nuisance conditions that may occur during the construction and demolition activities. Such measures must comply with the MassDEP's Bureau of Air and Waste (BAW) Regulations 310 CMR 7.01, 7.09, and 7.10.

Construction Equipment
MassDEP recommends that the project proponent participate in the MassDEP Diesel Retrofit Program. All non-road engines shall be operated using only ultra-low sulfur diesel (ULSD) with a sulfur content of 15 ppm pursuant to 40 CFR 80.510.

Solid Waste

The proponent shall properly manage and dispose of all solid waste generated by this proposed project pursuant to 310 CMR 16.00 and 310 CMR 19.000, including the regulations at 310 CMR 19.017 (waste ban). In addition, the proponent shall manage

regulated asbestos and asbestos-containing waste material as special wastes in accordance with 310 CMR 19.061.

Asphalt, brick and concrete (ABC) generated through crushing and reuse on-site must be handled in accordance with regulation and policy. Otherwise, the proponent would need to obtain a site assignment and facility permit for the crushing activity and a Beneficial Use Determination (BUD) for the reuse of the crushed material. The BUD regulations at 310 CMR 19.060 establish levels of assessment for four categories of beneficial use. More information regarding the handling of ABC, and a copy of the 30-day notification form may be found at the following website: http://www.mass.gov/eea/agencies/massdep/recycle/reduce/using-or-processing-asphalt-pavement-brick-and-concrete-.html.

Any discarded objects encountered during the demolition of the former dam shall be removed from the site for disposal as Solid Waste or recycling as appropriate.

Hazardous Waste

Any hazardous wastes generated by the demolition and earthwork activities or universal wastes must be properly managed in accordance with 310 CMR 30.0000.

If any hazardous waste, including waste oil, is generated at the site, the proponent must ensure that such generation is properly registered with the Department and managed in accordance with 310 CMR 30.00.

Bureau of Waste Site Cleanup

Spills Prevention

A spills contingency plan addressing prevention and management of potential releases of oil and/or hazardous materials from pre- and post-construction of the dam removal activities should be presented to workers at the site and enforced. The plan should include but not be limited to, refueling of machinery, storage of fuels, and potential releases.

IV. Other Comments/Guidance

MassDEP has adequate regulatory authority through the 401 WQC permitting process to determine the potential environmental impacts from the project and to ensure that all feasible measures are taken to avoid, minimize and mitigate any negative impacts as

necessary. With respect to Greenhouse Gas (GHG) Emissions, MassDEP concurs that the long term GHG impacts from the construction stage of this project are De Minimis.

The MassDEP permitting process will ensure environmental impacts are avoided where possible and minimized where necessary. MassDEP staff is available for discussions as the project progresses. If you have any questions regarding this comment letter, please do not hesitate to contact Kathleen Fournier at (413) 755-2267.

Sincerely,

Michael Gorski
Regional Director

cc: MEPA File

The COMMONWEALTH OF MASSACHUSETTS
BOARD OF UNDERWATER ARCHAEOLOGICAL RESOURCES
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
251 Causeway Street, Suite 800, Boston, MA 02114-2136
Tel. (617) 626-1014 Fax (617) 626-1240
www.mass.gov/orgs/board-of-underwater-archaeological-resources

July 24, 2020

Kathleen A. Theoharides, Secretary
Executive Office of Energy and Environmental Affairs
Attention: Anne Canaday, MEPA Unit
100 Cambridge Street, Suite 900
Boston, MA 02114

RE: Becker Pond Dam Removal (EOEA #16226), East Street, Mt. Washington, MA

Dear Secretary Theoharides,

The staff of the Massachusetts Board of Underwater Archaeological Resources has reviewed the above-referenced proposed project as detailed in the *Environmental Monitor* of 10 June 2020 and in the Expanded Environmental Notification Form (EENF) and Request for Waiver of Mandatory Environmental Impact Report–Supplemental Information document of 2 July 2020 and offers the following comments.

The Board has conducted a preliminary review of its files, the Massachusetts Historical Commission's Massachusetts Cultural Resources Inventory System (MACRIS), historic maps, and secondary literature sources to identify known and potential submerged cultural resources in the proposed project area. No record of any underwater archaeological resources was found. Based on the results of this review and the nature of the proposed project, the Board expects that this project is unlikely to impact submerged cultural resources.

Should heretofore unknown archaeological resources be encountered during the course of work, the Board expects that the project's sponsor will take steps to limit adverse effects (take care to not further disturb the archaeological resource and note its precise location) and notify the Board and the Massachusetts Historical Commission, as well as other appropriate agencies, immediately in accordance with the Board's *Policy Guidance for the Discovery of Unanticipated Archaeological Resources.*

The Board appreciates the opportunity to provide these comments as part of the MEPA review process. Should you have any questions regarding this letter, please do not hesitate to contact me at (617) 626-1014, or by email at david.s.robinson@mass.gov.

Sincerely,

David S. Robinson
Director

/dsr
Cc: Brona Simon, MHC
Bonney Hartley, S-MCBMI (via email attachment)
Bettina Washington, WTGH/A (via email attachment)
David Weeden, MWT (via email attachment)

Massachusetts Department of Fish and Game
Division of Ecological Restoration
Invested in Nature and Community

Beth Lambert, Director
Hunt Durey, Deputy Director

June 30, 2020

Secretary Kathleen A. Theoharides
Executive Office of Energy and Environmental Affairs
Attention: MEPA Office
100 Cambridge Street, Suite 900
Boston, MA 02114

RE: EEA No. 16226 / Becker Pond Dam Removal Project

Dear Secretary Theoharides,

The MA Division of Ecological Restoration (DER) supports The Nature Conservancy's request for a waiver of the mandatory Environmental Impact Report (EIR) under 301 CMR 11.11(5) for the Becker Pond Dam Removal Project. DER agrees with the proponent that an EIR would result in undue hardship and that the project meets the EIR waiver requirements, including that an EIR would "not serve to avoid or minimize damage to the environment" and that "the project is likely to cause no damage to the environment".

DER selected the Becker Pond Dam Removal as a designated Priority Project in 2018. Since then, we have partnered with The Nature Conservancy to develop a restoration approach for this site that will restore fish passage and valuable wildlife habitat while removing a public safety hazard. The proposed actions will create a high-quality, self-sustaining riverine system that promotes resiliency within protected lands, including the Schenob Brook Area of Critical Environmental Concern. Removal of the dam will also eliminate the costs and liabilities associated with this relic, hazardous infrastructure.

The local, state, and federal permits required for this project will result in a thorough review by regulatory agencies and provide ample opportunity for additional public comment. We appreciate this opportunity to comment during the MEPA process. Please do not hesitate to contact me at (617) 626-1542 with any questions.

Sincerely,

Beth Lambert

Beth Lambert
Director

BRPC
Berkshire Regional Planning Commission

KYLE HANLON, Chair
JOHN DUVAL, Vice-Chair
SHEILA IRVIN, Clerk
MALCOLM FICK, Treasurer
THOMAS MATUSZKO, A.I.C.P.
Executive Director

July 20, 2020

Kathleen Theoharides, Secretary
Executive Office of Energy and Environmental Affairs
Attn: Anne Canaday
100 Cambridge Street, Suite 900
Boston, MA 02114

Re: Becker Pond Dam Removal EENF, EEA# 16226

Dear Secretary Theoharides:

The Berkshire Regional Planning Commission (BRPC) hereby submits comments on the Expanded ENF for the Becker Pond Dam Removal Project (EEA #16226) in the Town of Mount Washington. The proposed project has met or exceeded MEPA review thresholds for a Mandatory Environmental Impact Report (EIR) due to impacts to Wetlands, Waterways, and Tidelands and State-Listed Rare Species and meets MEPA review thresholds due to its location within a designated Area of Critical Environmental Concern (ACEC). The Nature Conservancy, the project proponent, has requested a full waiver from the EIR. BRPC respectfully requests that the waiver from the mandatory EIR not be granted and that a Single EIR be required, at a minimum.

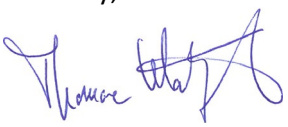
The Schenob Brook Drainage Basin ACEC, with its associated wetlands, comprises one of the most significant natural communities in Massachusetts. The largest continuous calcareous seepage swamp and the finest examples of calcareous fens in southern New England are located here. Over 40 state-listed rare and endangered species are located in the ACEC. In addition to the requirements of an ENF, an Expanded ENF must include more extensive and detailed information that describes and analyzes a proposed project and its alternatives and assesses its potential environmental impacts and environmental mitigation measures. Despite the submission of supplemental material, the Expanded ENF for the Becker Pond Dam Removal does not include the level of extensive and detailed information that is warranted in order to grant a waiver of the mandatory EIR.

The Expanded ENF describes the proposed project, however there are weaknesses and deficiencies that remain within the alternatives analysis, the assessment of the potential environmental impacts and environmental mitigation measures. According to supplemental materials provided by the proponent, under the preferred alternative “the limits of disturbance would be substantially greater than the footprint of the excavated channel”, however it does not appear that any additional information has been provided with respect to the limits of disturbance, environmental impacts or proposed mitigation measures. According to the supplemental materials, the final details of the on-site placement in upland areas would need to be discussed with Natural Heritage and Endangered Species Program because the site and surrounding land is within a mapped Priority Habitat.

BRPC is concerned that site access has yet to be determined and the EENF is deficient in its assessment of environmental impacts that would result from the creation of an access road. The new preferred alternative includes off-site hauling of material that would cause substantial wear and tear on the access road and on East Street. However, the supplemental materials do not include additional information with respect to the wear and tear on the access road and East Street, environmental impacts or proposed mitigation measures. Lastly, a fifth alternative has not been included, which is leaving the dam intact and repairing the dam to eliminate the safety issues currently posed by the condition of the dam. For these reasons, BRPC respectfully requests that the waiver from the mandatory EIR not be granted and that a Single EIR be required, at a minimum.

The BRPC approved these comments at the July 16, 2020 meeting of the Commission.

Sincerely,



Thomas Matuszko, AICP
Executive Director

TOWN OF MOUNT WASHINGTON
2 Plantain Pond Road
Mount Washington, Massachusetts 01258
(413) 528-2839
townofmtwashington.com

June 29, 2020

Executive Office of Energy and Environmental Affairs (EEA)
Attn: MEPA Office
Anne Canaday, EEA No. 16226
100 Cambridge Street, Suite 900
Boston MA 02114

Re: Becker Pond Dam Removal Project (Mt. Washington) Expanded Environmental Notification Form (EENF) and Request for Waiver of Mandatory Environmental Impact Report (EIR)

Dear Ms. Canaday:

Based on the unanimous vote of the Select Board at the meeting of June 29, 2020, and public comments to the board, the Select Board of the Town of Mount Washington opposes the requested waiver of the Mandatory Environmental Impact Report for the Becker Pond Dam Removal Project.

The Town strongly supports a full environmental study performed on the entire area, including upstream wetlands, the Becker Pond impoundment area and its adjacent wetlands, and the downstream waterways into Sages Ravine and further into Connecticut, as well as their embankment areas.

It is our understanding that in order to perform the work the proponent will have to install and then remove a new access way. This too causes environmental concern. Please do not hesitate to contact the Town of Mount Washington Select Board for further clarification, if necessary.

Sincerely,

Jim Lovejoy, Chair - jimlovejoy@townofmtwashington.com
Gail Garrett - gailg@townofmtwashington.com
Brian Tobin - briantobin@townofmtwashington.com

Town of Mount Washington - Select Board

CC: Martin Suuberg, Commissioner, DEP, martin.suuberg@mass.gov
KathleenBaskin, Ass't Commissioner Bureau of Water Resources, kathleen.baskin@mass.gov
W. "Smitty" Pignatelli, Chair Joint Committee of Resources and Agriculture, rep.smitty@mahouse.gov
Melissa Provencher, BRPC, mprovencher@berkshireplanning.org
Lealdon Langley, Watershed Management, DEP, lealdon.langley@mass.gov
Laura Blake, Watershed Planning Program, DEP, laura.blake@mass.gov

July 24, 2020

Secretary Kathleen Theoharides
Executive Office of Environmental Affairs
Attention: MEPA Office
100 Cambridge Street Suite 900
Boston, MA 02114

RE: **MEPA File #: 16226**

Becker Pond Dam Removal Project

Dear Secretary Theoharides:

American Rivers supports the request for a waiver of an Environmental Impact Report (EIR) under 301 CMR 11.11(5) for the Becker Pond Dam Removal Project in Mt. Washington, Berkshire County, Massachusetts. Based upon the scientific and engineering analysis included in the EENF, preparation of an EIR for this project would not serve to avoid or minimize damage to the environment, nor would its preparation provide increased benefit to the project or the environment.

American Rivers has worked on dam removals across Massachusetts and the country for the past two decades and time and again we see the benefits conveyed by stream restoration through dam removal. Impoundments formed by dams inundate river and stream habitat, converting it to slower moving and lake-like habitats, trapping sediment and nutrients. The water impounded behind the dam tends to be warmer, reducing dissolved oxygen and water quality. Dam removal reverses these impacts, restoring the natural sediment and nutrient transport regimes, improving water quality, and improving aquatic species passage within the river system.

The Becker Pond dam is a run-of-river dam and does not provide any flood storage, nor does it currently provide any recreational use. Its removal will eliminate a public safety hazard and restore the natural and historical ecological function of the associated brook, which is a MassWildlife-certified Coldwater Fishery Resource and falls within the Schenob Brook Area of Critical Environmental Concern.

Concerns regarding potential temporary impacts downstream following the dam removal are not uncommon. As noted, rivers are dynamic ecosystems. Increasingly as we study dam removals, we demonstrate that the upstream impacts recover quickly to a new habitat type; downstream impacts, for instance from sediment release, particularly

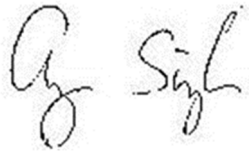
on steep gradient systems such as this, also establish a new equilibrium. Some temporary impacts are not unlike what we see in rivers during and after large storm events.

The basis of this waiver request is founded upon the extensive data collection and analysis of environmental impacts that have been conducted in support of this project to date. These analyses support the overwhelming environmental benefit of the project, and have resulted in the development of strategies to minimize and avoid negative environmental impacts as discussed in the alternatives analysis. This project is also supported by experts from the Massachusetts Division of Ecological Restoration who have decades of restoration experience.

The permitting associated with this project will enable additional public and regulator input as well as a mechanism for application of conditions to ensure compliance with MEPA regulations. This project will require a number of environmental permits, including the 401 Water Quality Certificate (Department of Environmental Protection), Massachusetts Wetlands Protection Act Order of Conditions (Mt. Washington Conservation Commission), Section 106 Historical Certificate (Mass Historic and other signatories), and Section 404 dredge and fill Permit (U.S. Army Corps of Engineers).

The Becker Pond Dam Removal Project will have many environmental and community benefits. On behalf of the dam owner and its restoration partners, I urge you to favorably consider this waiver request. If you have any questions, please don't hesitate to contact me at 413-584-2183 or asingler@americanrivers.org.

Sincerely,



Amy Singler
Director, River Restoration

APPALACHIAN TRAIL CONSERVANCY®

Karen Lombard
Director of Stewardship & Restoration
The Nature Conservancy
136 West St., Suite 202
Northampton, MA 01060
klombard@tnc.org

July 23, 2020

Dear Karen,

On behalf of the Appalachian Trail Conservancy (ATC) I am expressing our support for the Becker Pond Dam Removal Project on an unnamed brook in Mt. Washington, Berkshire County, Massachusetts by The Nature Conservancy (TNC). Removal of the decrepit dam will restore fish passage and wildlife habitat, while also removing a public safety hazard.

ATC is interested in this project as a conservation organization and co-managers of the adjacent public land around the Appalachian Trail near Sages Ravine, a highly popular Appalachian Trail destination with high natural resource and scenic value. We also support a restored natural stream flow into Sages Ravine.

We believe it is a best management practice to remove this dam, and that removal of the dam will restore the natural and historical ecological function of the associated brook, which is a MassWildlife-certified Coldwater Fishery Resource and falls within the Shenob Brook Area of Critical Environmental Concern. Dam removal generally has many environmental benefits, including improved water quality, restoration of natural sediment and nutrient transport regimes, improvement to aquatic habitat, aquatic species passage, creation of wetlands, and increased floodplain connectivity.

ATC supports TNC's due diligence regarding required environmental reviews, permits, and public comment opportunities. We request that ATC be notified of when the dam removal will occur so that we can inform Appalachian Trail visitors to the Sages Ravine area of this project. We would also like to offer monitoring of stream flow and sediment release at Sages Ravine and look forward to working with TNC on a monitoring program.

Please let me know if we can provide any additional support or information.

Hawk Metheny

Hawk Metheny
Senior Regional Director-Northeast
Appalachian Trail Conservancy
hmetheny@appalachiantrail.org

E. A. Dawson
6 Plantain Pond Road
Mount Washington, MA 01258

July 1, 2020

Executive Office of Energy and Environmental Affairs (EEA)
Attn: MEPA Office
Anne Canaday, EEA No. 16226
100 Cambridge Street, Suite 900
Boston MA 02114

Re: Becker Pond Dam Removal Project (Mt. Washington) Expanded Environmental Notification Form (EENF) and Request for Waiver of Mandatory Environmental Impact Report (EIR)

Dear Ms. Canaday:

I strongly support the Selectboard's unanimous vote to oppose a waiver for the Environmental Impact Review for the Becker Pond project.

As both a biologist by training and a municipal official, I find it particularly vexing that any organization "dedicated" to "responsible" environmental projects would request that they be allowed to alter the rules set for everyone else.

I have attached a copy of the Nature Conservancy's own mission statement and I would encourage you to read it in its entirety. I would also encourage you to become familiar with some of the TNC projects around the country that have changed wild areas into commercially viable properties. The extremely fragile barrier islands off the coast of South Carolina were taken over by the Nature Conservancy and now sport exceedingly popular golf courses. Not a win for the ecology there. In our own town we were lead to believe that in order to eradicate the evil barberry (invasive to be sure, but spread by birds and other wildlife and not controllable by herbicides) that the appropriate strategy was to use literally tons of Roundup to control the situation. Of course, we were assured that this was to be used carefully and had no lasting effect on the ecology. I submit that their position was not only misleading (the data regarding the dangers of this product were easily accessible) but irresponsible. The population of Mount Washington have excellent reasons to be skeptical of the Nature Conservancy's assurances.

Within this application is the fact that, to perform the proposed project, an access road will have to be built. There are no details regarding the scale, size or impact of this road or its remediation when the project is completed. This activity will require large equipment to be transported over a gravel road that belongs to the town with absolutely no consideration or reimbursement for the wear-and-tear on any of the town-owned roads. We have just spent over $12,000.00 for yet another engineering study to remediate the gravel roads. This amount

just pays for the study, not any of the required work. The study was initiated over the concerns of the residents on exactly that same portion of the road that will be ground zero for this TNC project. Given extremely small number of properties existing in town and the fact that over 60% of those properties are owned by the Commonwealth and the Nature Conservancy (thereby not contributing to the town treasury – as our PILOT money has been cut yet again), the burden of maintain our infrastructure is not inconsiderable.

The population living along that part of the road will be subject to the noise, dust and inconvenience caused by the work being done. Anyone else owning property up here who would want to "remediate" an area under similar conditions would be paying a huge fee to complete the EIR required.

Clearly there have been strong concerns voiced regarding the value of the entire project. Impoundments changed the environment dramatically. But recognizing that Those concerns need to be addressed by the Nature Conservancy, not swept aside. Waiving requirements for the EIR will send exactly the wrong message.

I am also attaching an email sent out by a resident regarding Becker Pond. I have his permission to do so. It is important that all sides be heard.

Thank you.

Respectfully,

Eleanor Dawson

CC: Martin Suuberg, Commissioner, DEP, martin.suuberg@mass.gov
KathleenBaskin, Ass't Commissioner Bureau of Water Resources, kathleen.baskin@mass.gov
W. "Smitty" Pignatelli, Chair Joint Committee of Resources and Agriculture, rep.smitty@mahouse.gov
Melissa Provencher, BRPC, mprovencher@berkshireplanning.ort
Lealdon Langley, Watershed Management, DEP, lealdon.langley@mass.gov
Laura Blake, Watershed Planning Program, DEP, laura.blake@mass.gov

Housatonic Valley Association

150 Kent Road
PO Box 28
Cornwall Bridge, CT 06754
T: (860) 672-6678

Merwin House
14 Main Street
PO Box 496
Stockbridge, MA 01262
T: (413) 298-7024

37 Furnace Bank Road
PO Box 315
Wassaic, NY 12592
T: (845) 442-1039

HVA
hvatoday.org

July 24, 2020

Secretary Kathleen Theoharides
Executive Office of Environmental Affairs
Attention: MEPA Office
100 Cambridge Street Suite 900
Boston, MA 02114

RE: **MEPA File #: 16226**
Becker Pond Dam Removal Project

Dear Secretary Theoharides:

The Housatonic Valley Association, the watershed organization for the Housatonic River is providing this letter in support (submitted electronically) of the waiver request for an Environmental Impact Report (EIR) under 301 CMR 11.11(5) for the Becker Pond Dam Removal Project in Mt. Washington, Berkshire County, Massachusetts. Removal of the dam will restore fish passage and wildlife habitat, while also removing a public safety hazard. HVA has been working to improve aquatic connectivity in the Housatonic watershed for more than ten years. This project, led by The Nature Conservancy, is an important river restoration project in the Housatonic watershed.

As you know, the Secretary may waive an EIR if preparation of the EIR would result in "undue hardship" to the project proponent or would "not serve to avoid or minimize damage to the environment" as described under 301 CMR 11.11(1). Furthermore, we understand that when mandatory EIR review thresholds have been exceeded, the Secretary may grant a waiver of the EIR as described under 301 CMR 11.11(2) based on determination that preparation of an EIR would not provide increased benefit to the project and the environment. Based upon the scientific and engineering analysis included in the EENF, preparation of an EIR for this project would not serve to avoid or minimize damage to the environment, nor would its preparation provide increased benefit to the project and the environment for reasons listed below.

Determinations for an EIR Waiver are based on whether "the project is likely to cause no damage to the environment" and "ample and unconstrained infrastructure facilities exist to support the project" (301 CMR 11.11(3)). Dam removal projects like this one restore natural ecological function and maximize environmental benefit. The basis of this waiver request is founded upon the extensive data collection and analysis of environmental impacts that have been conducted in support of this project to date. These analyses support the overwhelming environmental benefit of the project, and have resulted in the development of strategies to minimize and avoid negative environmental impacts as discussed in the alternatives analysis. This project is also supported by experts from the Massachusetts Division of Ecological Restoration who have decades of restoration experience.

This project triggers mandatory EIR under 301 CMR 11.03(3)(a)4: *structural alteration of an existing dam that causes and expansion of 20% or any decrease in impoundment capacity*. The dam is a run-of-river dam and does not provide any flood storage, nor does it currently provide any recreational use. Removal of the dam will restore the natural and historical ecological function of the associated brook, which is a MassWildlife-certified Coldwater Fishery Resource and falls within the Schenob Brook Area of Critical Environmental Concern. Dam removal has many environmental benefits, including improved water quality, restoration of natural sediment and nutrient transport regimes, improvement to aquatic habitat, aquatic species passage, creation of wetlands, and increased floodplain connectivity.

The permitting associated with this project will enable additional public and regulator input as well as provide a mechanism for application of conditions to ensure compliance with various laws and regulations. This project will require a 401 Water Quality Certificate (Department of Environmental Protection), Massachusetts Wetlands

Protection Act Order of Conditions (Mt. Washington Conservation Commission), Section 106 Historical Certificate (Mass Historic and other signatories), and Section 404 dredge and fill permit (U.S. Army Corps of Engineers).

The Becker Pond Dam Removal Project will have many environmental and community benefits. On behalf of the dam owner and its restoration partners, I urge you to favorably consider this waiver request. If you have any questions, please don't hesitate to contact me, Alison Dixon at adixon@hvatoday.org.

Sincerely,

Alison Dixon
HVA - Berkshire Outreach Manager
14 Main Street
Stockbridge, MA 01262
adixon@hvatoday.org

I would like to give all concerned my input on the removal of the Becker pond dam by the Nature Conservancy. The Dam was built by William Hunt eighty years ago. The pond is spring fed and has many pools upstream harboring endangered species of amphibians and plant life. The pond itself is a breeding ground for native brook trout, newt salamanders which breed on the dam itself yearly. Also spotted salamanders, wood ducks, kingfishers, blue herons, variety of owls. The pond is located a good half of a mile off east street and was owned by the Dombrowski family for three generations , It was recently sold to the Nature Conservancy thinking it would be kept intact. The family held on to the house and a small parcel of land which also holds the access road to pond. In recent times we have granted the Nature Conservancy permission to walk this road to do studies and for their voluntary work crews etc. Last year their intent removing the dam was given and they were told they could not use the road for the removal of the dam. It now looks like they are intending on building a alternative road through Nature Conservancy property south of the existing road. Becker Pond is a thriving Ecosystem that should not be eliminated ,especially by the Nature Conservancy . If we had known that this was their intent we never would have sold this property to them . To all concerned residents ,please feel free to take a viewing of Becker Pond and experience something that will never be able to replaced. I am available to be contacted for more information Ted Dombrowski 413 528 8090

Henry Sweren
President – Taconic Chapter

June 24, 2020

Secretary Kathleen Theoharides
Executive Office of Environmental Affairs
Attention: MEPA Office
100 Cambridge Street Suite 900
Boston, MA 02114

RE: **MEPA File #: 16226**
Becker Pond Dam Removal Project

Dear Secretary Theoharides:

The Massachusetts/Rhode Island (MA/RI) Council of Trout Unlimited is comprised of 11 chapters of dedicated volunteer cold-water conservationists. Our membership numbers in the two states exceed 4,000 individuals. These good folks have in recent years, among other efforts, undertaken projects to conserve nearly 2 miles of wild brook trout habitat in Heath and Westport, Massachusetts; identify and track wild trout populations in the Deerfield River watershed; and, remove dams and restore coaster brook trout populations on Red Brook in southeastern Massachusetts. In short, we know a good cold-water conservation project when we see it!

I am the President of the Taconic Chapter, which works to protect and conserve cold-water resources in the most western reaches of Massachusetts. Our chapter strongly supports the request for a waiver of an Environmental Impact Report (EIR) under 301 CMR 11.11(5) for the Becker Pond Dam Removal Project in Mt. Washington, Berkshire County, Massachusetts. Removal of the dam will restore fish passage and wildlife habitat, while also removing a public safety hazard.

As you know, the Secretary may waive an EIR if preparation of the EIR would result in “undue hardship” to the project proponent or would “not serve to avoid or minimize damage to the environment” as described under 301 CMR 11.11(1). Furthermore, we understand that when mandatory EIR review thresholds have been exceeded, the Secretary may grant a waiver of the EIR as described under 301 CMR 11.11(2) based on determination that preparation of an EIR would not provide increased benefit to the project and the environment.

Based upon the scientific and engineering analysis included in the EENF, preparation of an EIR for this project would not serve to avoid or minimize damage to the environment, nor would its preparation provide increased benefit to the project and the environment for reasons listed below.

Determinations for an EIR Waiver are based on whether “the project is likely to cause no damage to the environment” and “ample and unconstrained infrastructure facilities exist to support the project” (301 CMR 11.11(3)). Dam removal projects like this one restore natural ecological function and maximize environmental benefit. The basis of this waiver request is founded upon the extensive data collection and analysis of environmental impacts that have been conducted in support of this project to date. These analyses support the overwhelming environmental benefit of the project and have resulted in the development of strategies to minimize and avoid negative environmental impacts as discussed in the alternatives analysis. This project is also supported by experts from the Massachusetts Division of Ecological Restoration who have decades of restoration experience.

This project triggers mandatory EIR under 301 CMR 11.03(3)(a)4: *structural alteration of an existing dam that causes an expansion of 20% or any decrease in impoundment capacity*. The dam is a run-of-river dam and does not provide any flood storage, nor does it currently provide any recreational use. Removal of the dam will restore the natural and historical ecological function of the associated brook, which is a MassWildlife-certified Coldwater Fishery Resource and falls within the Shenob Brook Area of Critical Environmental Concern. Dam removal has many environmental benefits, including improved water quality, restoration of natural sediment and nutrient transport regimes, improvement to aquatic habitat, aquatic species passage, creation of wetlands, and increased floodplain connectivity.

The permitting associated with this project will enable additional public and regulator input as well as provide a mechanism for application of conditions to ensure compliance with various laws and regulations. This project will require a 401 Water Quality Certificate (Department of Environmental Protection), Massachusetts Wetlands Protection Act Order of Conditions (Mt. Washington Conservation Commission), Section 106 Historical Certificate (Mass Historic and other signatories), and Section 404 dredge and fill permit (U.S. Army Corps of Engineers).

The Becker Pond Dam Removal Project will have many environmental and community benefits. Requiring an EIR will serve only to duplicate environmental protection measures enveloped in the permits for this project. On behalf of Trout Unlimited, we ask that you waive the EIR requirement and allow this cold-water conservation project to move forward swiftly.

If you have any questions, please don’t hesitate to contact Henry Sweren at (413)822-5216 or hsweren8@aol.com

Sincerely,
Henry Sweren, President
Taconic Chapter – Trout Unlimited